UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,567	07/31/2006	Susanne M. Poschmann	PHUS040062US2	3806

38107 7590 07/07/2009

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P. O. Box 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER	
SYED, ATIA K	

ART UNIT	PAPER NUMBER
3769	

MAIL DATE	DELIVERY MODE
07/07/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/597,567	POSCHMANN, SUSANNE M.	
	Examiner	Art Unit	
	ATIA SYED	3769	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05/01/2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) *121* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11 and 16-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *13-15 and 21* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *31 July 2006* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *07/31/2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Election/Restriction

Applicant's election response to the election/restriction filed on May 1, 2009 is acknowledged. Applicant elected group A, claims 1, 2-11 and 16-20 with traverse. Applicant argued that the claims 1 (group A) and 13 (group B), although related as apparatus and method, have a common technical feature and should be examined together. Examiner agrees to the Applicant's argument that groups A and B have a common technical feature, i.e. an alarm or notification that the user has moved out of coverage area. However, this common technical feature is not a "special technical feature," i.e. it's not a novel feature since lack of unity is evident in view of Reed et al. (US Patent Publication No. 2003/0114736) as explained in the restriction requirement sent on April 21, 2009. Therefore groups A and B lack unity and do not have to be examined in the same application. The requirement is still deemed proper and is therefore made FINAL; claims 13-15 and 20 and are withdrawn from further consideration by the examiner.

Drawings

The drawings are objected to because figure 2, the reference number "4" for the "central station" is not consistent with the reference number "14" used for "central station" in the specifications. Figure 2, reference number "4" should be changed to "14".

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing

sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

Claim 20 recites that the audio/visual signal is sent to a separate device however, the claimed subject matter is described in the specification. Applicant should be careful not to introduce any new matter into the disclosure (i.e., matter which is not supported by the disclosure as originally filed).

Note to Applicant Regarding Claim Interpretation

The terms "for", "wherein", and "configured to" in the claim(s) may be interpreted as intended use. Intended use/functional language does not require that reference specifically teach the intended use of the element. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11 and 16-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has claimed "means for transmitting an audio or visual signal as the user moves out of the coverage area of the network" in claim 1. Similarly claim 20 recites "signal is transmitted to a separate device". It is unclear to the Examiner how the audio or video signal is transmitted when the user has moved out of coverage area, i.e. there is no connection/access point available to transmit the signal. Furthermore Examiner is unclear as to where this audio/visual signal is being transmitted. Examiner did not find any support in the specifications for either "means for transmitting an audio or visual signal" or where the

signal is being transmitted. As such the examiner cannot discern the metes and bounds of the claimed invention.

It is Examiner's best guess that the signal is being transmitted from the controller 28 of the telemetry device 10 to the audio module 34 or the display screen 36 of the telemetry device as shown in figure 3 and disclosed on page 4, lines 1-3 of the specification. Therefore, for examination purposes Examiner has presumed that "means for transmitting" is a controller, microcontroller or a processor. However, this explanation still renders claim 20 to be indefinite.

Applicant is invited to point out the support for claim 20 and/or any other possible interpretation of "means for transmitting".

35 U.S.C. 112, Sixth Paragraph

The terms "means for" used in claim 1 are invoking 35 U.S.C. 112, sixth paragraph as they satisfy the three prong test for invoking 112 6th paragraph (see MPEP 2188).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7, 9-11, 16-17, and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by West et al., US Patent Application Number 2002/0013518 A1 (hereinafter West).

1. A telemetry apparatus (figs 5 and 7; patient monitor 22) for notifying a user of moving out of a coverage area, comprising:

means for establishing a connection with a network in communication with a central monitoring station (figs 5 and 7, transceiver 104 and antenna 90 are used for establishing communication with the central stations 24; ¶ 79); and

means for transmitting an audio or visual signal as the user moves out of the coverage area of the network (figs 5 and 7, controller 100 generates audio message on audio I/O device 92 and display screen 84; ¶ 82-83; also see fig 8, display screen 84 for the visual signal " Ⓥ " that the patient has moved out of coverage area; ¶ 97-99).

2. The telemetry apparatus of claim 1, further comprising means for collecting patient data of the user (figs 5 and 7, patient monitor 22 collects patient data; ¶ 71).

3. The telemetry apparatus of claim 2, further comprising means for processing the patient data for a subsequent transmission to the central monitoring station (figs 5 and 7, controller 100 processes patient data for transmission to the central station 24; ¶ 77).

4. The telemetry apparatus of claim 1, further comprising means for displaying a visual signal as the user moves out of the coverage area of the network (figs 4 and 7; display screen 84; ¶ 72 and 82; also see fig 8, display screen 84 for the visual signal " Ⓥ " that the patient has moved out of coverage area; ¶ 97-99).

5. The telemetry apparatus of claim 4, wherein the visual signal is transmitted after a predetermined time period has expired (the response to a communication dropout by the patient monitor 22 depends on the time period of the communication dropout; ¶ 98; the response is either audio or visual; ¶ 82-83).

6. The telemetry apparatus of claim 4, wherein the visual signal is transmitted after a predetermined number of attempts to reconnect to the network has failed (the response to a communication dropout by the patient monitor 22 depends on the time period of the communication dropout i.e., more than 10, 20 or 30 seconds; the patient monitor 22 is configured to detect the communication loss and automatically try to reconnect, therefore the patient monitor tries to reconnect a predetermined number of times in the give period of 10, 20 or 30 seconds; ¶ 98-99; the response signal is either audio or visual; ¶ 82-83)

7. The telemetry apparatus of claim 1, wherein the audio signal is transmitted after a predetermined time period has expired (the response to a communication dropout by the patient monitor 22 depends on the time period of the communication dropout; ¶ 98; the response signal is either audio or visual; ¶ 82-83).

8. The telemetry apparatus of claim 1, wherein the audio signal is transmitted after a predetermined number of attempts to reconnect to the network has failed (the response to a communication dropout by the patient monitor 22 depends on the time period of the communication dropout i.e., more than 10, 20 or 30 seconds; the patient monitor 22 is configured

to detect the communication loss and automatically try to reconnect, therefore the patient monitor tries to reconnect a predetermined number of times in the give period of 10, 20 or 30 seconds; ¶ 98-99; the response signal is either audio or visual; ¶ 82-83).

9. A system for notifying a user of moving out of a coverage area, comprising:

a central monitoring station (fig 1, central station 24; ¶ 36) wirelessly communicating with a plurality of the telemetry devices (patient monitors 22; ¶ 36) of claim 1.

Claims 10 and 11 are rejected substantially on the same bases as claims 2 and 5 respectively.

16. The telemetry apparatus of claim 2 wherein:

the means for collecting patient data includes a sensory circuit for receiving patient data from a monitoring device (figs 5 and 7, patient monitor 22 collects patient data; ¶ 71);

the means for establishing the connection includes a transmitter for transmitting the patient data to the central monitoring station (figs 5 and 7, transceiver 104 and antenna 90 are used for communicating patient data to the central stations 24; ¶ 79), wherein the patient data from the monitoring device (figs 5 and 7, sensor assemblies; ¶ 77), to the sensory circuit (figs 5 and 7, controller 100; ¶ 77), to the transmitter (figs 5 and 7, transceiver 104 and antenna 90 are used for communicating patient data to the

central stations 24; ¶ 79), to the central monitoring station (fig 1, central station 24; ¶ 36) defines a patient data transmission chain (patient data is acquired by the sensor assemblies, processed by the controller 100 and transmitted by the transmitter 104 to a central station 24); and

the means for transmitting audio or visual signal includes a device for producing a signal when the patient data transmission chain is disrupted for a predetermined threshold (the controller 100 produces an audio or a visual warning after a predetermined time period of dropout that the data transmission chain has been disrupted i.e. patient monitor has lost communication to the central station; ¶ 82-83 and 97-99; also see fig 8, display screen 84 for the visual signal " " that the patient has moved out of coverage area).

17. The telemetry apparatus of claim 16, wherein the predetermined threshold is a predetermined time period (the response to a communication dropout by the patient monitor 22 depends on the time period of the communication dropout, therefore the threshold is a predetermined time period i.e., more than 10, 20 or 30 seconds; ¶ 98).

18. The telemetry apparatus of claim 16, wherein the predetermined threshold is a predetermined number of attempts to reestablish the patient data transmission chain (the response to a communication dropout by the patient monitor 22 depends on the time period of the communication dropout i.e., more than 10, 20 or 30 seconds; the patient monitor 22 is configured to detect the communication loss and automatically try to reconnect, therefore the threshold is

predetermined number of attempts to reconnect within the give period of 10, 20 or 30 seconds; ¶ 98-99).

19. The device of claim 16, wherein the signal is audio, visual, or a combination thereof (the response signal to a communication dropout is either audio or visual; ¶ 82-83).

Claim 20 is rejected on substantially the same bases as claim 1.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ATIA SYED whose telephone number is (571)270-7134. The examiner can normally be reached on Monday through Friday, 9:00-5:00 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Johnson can be reached on (571) 272-4768. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ATIA SYED/
Examiner, Art Unit 3769

/Michael C. Astorino/
Primary Examiner, Art Unit 3769

July 2, 2009